

Hearing Date and Time: May 9, 2006, 10:00 am

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Local Union Nos. 18 and 832

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
	:	
DELPHI CORPORATION, <u>et al.</u> ,	:	Case No.05-44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	

SUPPLEMENTAL/REBUTTAL DECLARATION OF CHARLES SCHERER
IN SUPPORT OF IUOE LOCAL UNION NOS. 18 AND 832 OPPOSITION
TO DELPHI'S MOTION FOR AUTHORITY TO REJECT
COLLECTIVE BARGAINING AGREEMENTS

I, Charles Scherer, declare and state as follows:

1. I make this supplemental/rebuttal declaration in support of the Objections of IUOE Local 18- S to Delphi's Motion for Authority to Reject Collective Bargaining Agreements under 11 U.S. C § 1113 (c) and Motion to Modify Retiree Welfare Benefits under 11 U.S.C. §

1114(g). Except as otherwise stated here, all of the facts I set forth in this declaration are based upon my personal knowledge and my experience as a union leader and negotiator or from information obtained in the course of the performance of my duties. If called upon to testify I could and would testify to the facts set forth here.

2. I have read the declaration of Delphi manager Robert Gerling and while I am not in basic disagreement with much of what he has said, I believe he has left out some important facts about the relationship between our bargaining unit and Delphi and his meetings with me. Negotiations between Delphi and IUOE Local 18 S historically occurred only at the local level (our International Union has no involvement and no contract with Delphi) with direct involvement of our chief steward. Historically, although Delphi would present its proposals to Local 18, negotiations would not happen between Delphi and Local 18 until Delphi had reached an agreement with the UAW on both the national level and on the local level at the Columbus plant. The approach Delphi took to the negotiations both before and after it made its motion to reject our collective bargaining agreement, did not differ in any significant degree from the approach Delphi took in the past. I had no reason to believe nor did any Delphi representative, including Mr. Gerling, ever communicate to me that Delphi was prepared to negotiate anything with the IUOE ahead of reaching agreement with the larger unions.

3. To the contrary, any conversations I had with Mr. Gerling were consistent with Delphi's prior bargaining patterns. On the occasions when I met him, at Panero's Bakery and at Bob Evans Restaurant, we discussed the fact that there would be no point to negotiations until Delphi had reached agreement with the UAW. I expressed my position that I knew I would not do better than the UAW but I would want to do at least as well. Mr. Gerling agreed and went so far as to say that it would be wise for me to wait.

4. Delphi's management publicly acknowledged that it didn't expect to bargain with us until it reached an agreement with UAW. I read an article from the Associated Press which I have attached as an exhibit A to my declaration that discusses the objections our lawyers filed to the Debtor's motion in which the company acknowledged that they were following their "standard practice" of pattern bargaining.

5. I also didn't have and still don't have a viable proposal from Delphi to consider. I believe that from Delphi's point of view as well as from Local 18 S's point of view an attrition package was a first step to an overall agreement. As a result, between March 22nd and March 27, Mr. Gerling and I had three telephone conversations revolving around his telling me that he would have an attrition package to offer Local 18 because agreement was reached with the UAW on a package. That is why I told Mr. Gerling that we should meet at the plant in Columbus, since for the first time it looked like we could start negotiating the details of what would happen at the Columbus plant, and I needed the chief steward to be present. The purpose of the meeting was not just to hear him present the attrition plan but to start discussing the details of what the company was trying to achieve at the Columbus plant.

6. Mr. Gerling was the one who canceled that meeting because, he said, he could not offer an attrition plan as yet, so we had no details to discuss.

7. Mr. Gerling says that I never gave him a counter proposal to the GM Consensual Proposal. I don't believe that Delphi expected Local 18 negotiations to be done around the Consensual Proposal since it is a GM Consensual proposal and we were not invited to any bargaining with GM, nor has Delphi ever said that it is prepared to put up the money to make the proposal real. The wage and benefit piece – which is the heart of any contract – is like a house of cards, since wages and benefits depend not only on GM funding at the contract's beginning

but through the entire term of the contract. Also, the contract says that Delphi has the right to change anything it needs to change to meet its cost savings need and Delphi never gave me any indication of what cost savings it was trying to achieve. The proposal is not a proposal I could even explain to my members much less expect them to ratify.

8. I have been advised by my attorneys that Delphi has submitted testimony from an expert in which he says that in assessing the wages it pays to its employees Delphi should compare them to wages of employees who work in 12 occupations, none of which include the stationary engineers and that he has not included the wages of the stationary engineers in his study of the wages of Delphi's skilled trades. (The basis for the Expert's Report is Exhibit B annexed) I have been told that based upon that data and BLS statistics on the nationwide wages for only those occupations, he is recommending that Delphi should pay its skilled workers, including the stationary engineers, no more than \$21.50 per hour.

9. I have looked at the Bureau of Labor statistics data on Stationary Engineers, and I believe that is the only appropriate occupational category to use to compare the wages of the Delphi employees whom I represent. That is because stationary engineers have special skills, licensing and training requirements that may not apply to any of the other occupations. At Columbus, the stationary engineers start up, regulate, repair and shut down the systems which provide compressed air and heat for production in the plant as well as heat for the offices. They ensure that the equipment is operated safely and economically. Their work entails exposure to high temperatures, dust, dirt and high noise levels. Stationary engineers acquire their skills through formal apprenticeship or thorough on the job training supplemented by courses at a trade school. Our national apprenticeship programs usually last 4 years and include 8,000 hours of on

the job training. Delphi engineers at the Columbus plant have already been through their apprenticeship or learned on the job or in the military.

10. I believe that Delphi's current base wage rate for Stationary Engineers is competitive. I am providing the Court with the BLS wage data for Stationary Engineers which shows that the nationwide mean hourly wage for Stationary Engineers in motor vehicle parts manufacturing companies was \$28.58. (The Stationary Engineers wage data is Exhibit C.) The base rate under our contract in 2004 was \$29.92.

11. I have also been advised by my attorneys that the same expert witness has stated that the pool of workers from whom Delphi draws its employees is a nationwide pool so it is correct to use nationwide data. I don't know upon what the expert bases his opinion. All of the workers in the category of stationary engineer in the Columbus plant come from around the Columbus area. One comes from another part of Ohio. They are all longterm employees; the shortest tenure is 5 years. All engineers in the Columbus plant are required to be licensed by the State of Ohio.

12. I declare under penalty of perjury, and pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed this 16th day of May, 2006.

/s/
CHARLES SCHERER

Exhibit A

To

**SUPPLEMENTAL / REBUTTAL DECLARATION
OF CHARLES SCHERER IN SUPPORT OF
INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCALS 18 AND 832 TO DEBTORS'
MOTION FOR AUTHORITY TO REJECT
COLLECTIVE BARGAINING AGREEMENTS AND
TO MODIFY RETIREE BENEFITS.**

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Posted on Sat, Apr. 22, 2006

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Delphi contract plan draws fire

Unions contend that the parts-maker did not prove that it needed to slash wages. A hedge fund agrees.

By Dee-Ann Durbin
Associated Press

DETROIT - The United Auto Workers and other unions opposed Delphi Corp.'s attempt to cancel its labor contracts in court filings yesterday, saying the auto parts supplier has failed to prove it needs to slash workers' wages as part of its Chapter 11 restructuring.

"This is a case in which the debtors have opted to place litigation before bargaining and to place confrontation before consultation," said the United Steelworkers, which represents about 1,000 of Delphi's 33,000 U.S. hourly workers.

Unions aren't the only parties opposed to Delphi's motion. Appaloosa Management L.P., a hedge fund that owns 9.3 percent of Delphi's stock, said in a filing that Delphi hasn't proven that canceling its contracts would be better than waiting until they expire and renegotiating them.

Delphi, which filed for bankruptcy protection in October, asked a federal judge to void its labor contracts March 31 after it failed to reach agreements with its unions and General Motors Corp., its former parent and largest customer, to lower wages. Under its latest proposal, Delphi wanted to reduce hourly pay from \$27 to \$16.50 by 2007.

U.S. Bankruptcy Judge Robert Drain is scheduled to consider Delphi's request May 9.

The UAW, which represents 24,000 Delphi hourly workers, said Delphi's motion was premature because it depends on GM to supplement wages, something GM hasn't agreed to do.

The International Union of Operating Engineers, which represents 20 powerhouse operators at Delphi plants, said Delphi virtually ignored its members while it focused on negotiating buyouts for UAW members.

Delphi spokesman Lindsey Williams said the company had been in contact with all of its

The Philadelphia Inquirer

Front Page

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- Chester County
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South Jersey

- Burlington County
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- Currents
- Pennsylvania
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• Weekend

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unions but did more intensive bargaining with some than with others. He said it was standard in the auto industry to bargain with one union and ask smaller unions to accept the master agreement.



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Exhibit B

To

**SUPPLEMENTAL / REBUTTAL DECLARATION
OF CHARLES SCHERER IN SUPPORT OF
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ENGINEERS LOCALS 18 AND 832 TO DEBTORS'
MOTION FOR AUTHORITY TO REJECT
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TO MODIFY RETIREE BENEFITS**

SKILLED WORKERS

Report Method:

Comparison of simple average wage among 7,200 skilled Delphi workers with:

Unweighted average NCS wage across 12 national occupations in which approximately 85% of Delphi's skilled workers belong.

Carpenters
Electricians
Industrial machinery repairers
Inspectors, testers and graders
Machinery maintenance
Machinists
Millwrights
Patternmakers and modelmakers, metal
Plumbers, pipefitters and steamfitters
Precision inspectors, testers, and related workers, n.e.c.
Tool and die makers
Welders and cutters

Exhibit C

To

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Industry	Employment	Hourly mean wage	Annual mean wage
<u>General medical and surgical hospitals</u>	6,210	\$22.37	\$46,530
<u>Local government (OES designation)</u>	5,540	\$23.40	\$48,670
<u>Power generation and supply</u>	3,310	\$24.89	\$51,780
<u>Colleges and universities</u>	3,230	\$20.02	\$41,640
<u>State government (OES designation)</u>	3,000	\$21.65	\$45,030

Top paying industries for this occupation:

Industry	Employment	Hourly mean wage	Annual mean wage
<u>Postal service</u>	110	\$29.40	\$61,150
<u>Motor vehicle parts manufacturing</u>	240	\$28.58	\$59,440
<u>Computer systems design and related services</u>	80	\$27.75	\$57,710
<u>Turbine and power transmission equipment mfg.</u>	70	\$27.01	\$56,170
<u>Semiconductor and electronic component mfg.</u>	60	\$26.88	\$55,900

State profile for this occupation: Top

States with the highest concentration of workers in this occupation:

State	Employment	Hourly mean wage	Annual mean wage	Percent of State employment
<u>District of Columbia</u>	790	\$24.53	\$51,030	0.130%
<u>Maine</u>	560	\$19.17	\$39,860	0.094%
<u>Wyoming</u>	170	\$23.29	\$48,440	0.069%
<u>Minnesota</u>	1,810	\$21.89	\$45,520	0.069%
<u>Maryland</u>	1,520	\$20.14	\$41,890	0.061%

Top paying States for this occupation:

State	Employment	Hourly mean wage	Annual mean wage	Percent of State
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